

CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

Mark Clayton Choate, Esq., AK #8011070  
Jessica L. Srader, Esq., AK #0412105  
CHOATE LAW FIRM LLC  
424 N. Franklin Street  
Telephone: (907) 586-4490  
Facsimile: (907) 586-6633

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA AT JUNEAU**

MYRNA I. JOHNSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
FRED MEYER STORES, INC., and	)	
JAIME SAN MIGUEL,	)	
	)	
Defendants	)	Case No. J-04-008 CV (JWS)

**PLAINTIFF'S MOTION IN LIMINE NO. 2 (F.R.E. 609)  
(SALE OF COUNTERFEIT GOODS – NO CONVICTION)**

Plaintiff, MYRNA JOHNSON, through counsel, moves the Court for an Order *in limine* prohibiting the defendant from mentioning in any fashion her being charged with the sale of counterfeit goods. After plaintiff's constructive discharge, she lost her home through foreclosure and relocated to South Carolina. Because she was unable to find work similar to her management position at Fred Meyer, she decided to enter into business for herself, purchasing a shop which sold designer "look alike" handbags and purses. Subsequently, she was charged with the sale of counterfeit goods because a small amount of the shop inventory was believed by state authorities to be "counterfeit" as opposed to "look alike". At all times, her shop always represented that the goods were "not" genuine and were "look alike".

The plaintiff was initially charged in county court with the sale of counterfeit goods. Subsequently, it is her understanding that the charge is not going to be prosecuted by the

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1 county and has been referred to the Federal prosecutor for review. To her knowledge, no  
2 further action has taken place in regards to those charges. There is no court date nor has there  
3 been any indication that there is an ongoing intent to prosecute her.

4 Defendants should be prohibited from referring to or mentioning this charge or the  
5 circumstances surrounding the charge as there has been no conviction. FRE 609 only allows  
6 the admission of a charge of dishonesty when there has been a conviction. There has been no  
7 conviction and it would be more prejudicial than probative to admit the fact that plaintiff has  
8 been charged with "sale of counterfeit goods" when there has been no conviction.

9 DATED this 28<sup>th</sup> day of July, 2006 at Juneau, Alaska.

1 Respectfully submitted,  
2 CHOATE LAW FIRM LLC

3 *s/Mark Choate*

4 \_\_\_\_\_  
5 MARK CHOATE  
6 424 N. Franklin Street  
7 Juneau, AK 99801  
8 Phone: (907) 586-4490  
9 Fax: (907) 586-6633  
10 EM: lawyers@choatelawfirm.com  
11 AK Bar: 8011070

12 Attorneys for Plaintiff

13 2 of 4

14 *Johnson, Myrna v Fred Meyers (03/18/2002) [23003].*  
15 PLAINTIFF'S MOTION IN LIMINE NO. 2 (F.R.E. 609)  
16 J-04-008 CV (JWS)

**PROOF OF SERVICE**

## STATE OF ALASKA, FIRST JUDICIAL DISTRICT AT JUNEAU

I am employed in the City and Borough of Juneau, State of Alaska. I am over the age of 18 and not a party to the within action. My business address is 424 N. Franklin Street, Juneau, AK 99801.

On July 28, 2006, I served the foregoing document described as *Plaintiff's Motion in Limine No. 2 (F.R.E. 609)*, on the interested parties in this action by serving the original true copies, addressed as follows:

James Dickens  
Miller Nash LLP  
Attorney For: Fred Meyers  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352  
Phone: (206) 622-8484  
Fax: (206) 622-7485

Peter Gruenstein  
Gruenstein & Hickey  
Attorney For: Fred Meyers  
500 L Street, Suite 401  
Anchorage, AK 99501  
Phone: (907) 258-4338  
Fax: (907) 258-4350

☒ By mail, I deposited such envelope(s) in the mail at Juneau, Alaska, with postage thereon fully prepaid.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Juneau, Alaska, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☐ By personal service, I delivered such envelope(s) by hand to the ☐ office(s); ☐ the court box of the addressee(s).

☐ By facsimile, I transmitted such documents from Juneau, Alaska, to the offices of the addressee(s).

☐ By email, I transmitted such documents from Juneau, Alaska, to the email address of the addressee(s).

☒ By electronic service through the court of record's electronic service system.

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1                   ☒ (State) I declare under penalty of perjury under the laws of the State of Alaska  
2 that the foregoing is true and correct.

3                   ☐ (Federal) I declare that I am employed in the office of a member of the Bar of  
4 this Court, at whose direction the service was made.

5                   Executed on July 28, 2006 at Juneau, Alaska.

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